



CRL OP(MD). Nos.12696 & 12698 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/07/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). Nos.12696 & 12698 of 2023

R.Rajapandi

... Petitioner/ Accused No.2 in
Crl.O.P.(MD).No.12696 of 2023

Cliff Augustine Rowe

... Petitioner/ Accused No.3 in
Crl.O.P.(MD).No.12698 of 2023

Vs

The State rep.by,
The Inspector of Police,
Kodaikanal Police Station, Dindigul
District.Crime No.311 of 2022..

... Respondent/ Complainant
in both Criminal Original Petitions

(In both Criminal Original Petitions)

For Petitioners: M/s. Antony Santhosh.U,
Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



CRL OP(MD). Nos.12696 & 12698 of 2023

WEB COPY

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :-

For Bail in Crime No.311 of 2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/A2 and A3 herein, who were arrested on 19.11.2022 for the alleged offence under Sections 8(c) r/w, 20(b)(ii)(B), 22(C), 25, 21, 29(i) of NDPS Act, in Crime No.311 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution in brief:

On 19.11.2022 at about 10.00 a.m., the defacto complainant received secret information from the police informer. Along with police team, when they were doing the patrol duty, at about 10.30 a.m., near Kalayarangam Bus Stop, they found three persons in suspicious manner. On noticing the police party, they tried to fled away from that place. They were apprehended and enquired. They came forward to give a statement that was also recorded. They are found in possession of 1.100 gms of ganja and 100 gms. Of Mushroom. Further process have been undertaken; samples have

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). Nos.12696 & 12698 of 2023

been taken; accused was brought to the police station; FIR has been registered; petitioner was arrested on the spot itself along with the above said contraband and remanded to judicial custody. Seeking bail, second accused filed Crl.O.P.(MD). No.12696 of 2023.

3. Similarly, accused No.3 filed petition in Crl.O.P.(MD).No.12698 of 2023, seeking bail on the ground that they are not involved in the above said occurrence. Apart from that it is also submitted that only Mushroom has been seized, which is not commercial quantity.

4. Heard both sides. Records perused.

5. The learned Additional Public Prosecutor would submit that several applications have been filed by these petitioners before this Court on several times. According to him, this is the fourth application that has been filed by both of them. All the three earlier applications have been dismissed, after considering the merits of the cases. According to him, absolutely, there is no change of circumstances. Without properly mentioning the change of circumstances, these petitions came to be filed.



WEB COPY

6.The learned counsel for the petitioners would submit that ever since from the date of arrest namely from 19.11.2022, they are in custody. With regard to the issue that Mushroom of 100 gms. is commercial quantity, the learned Additional Public Prosecutor would rely upon Entry 10 in schedule, which shows that Psilocybin is a Psychotropic substances as defined under Section 2(7)(d) of the NDPS Act. So it is seen that it is a controlled substance having psychotropic value. So possession of 100 gms. is of commercial quantity. Unless the petitioner satisfied the requirement under Section 37 of the NDPS Act, he is not entitled to the relief of bail. Except stating that they are in custody ever since from the date of arrest, no other ground is raised.

7.I find no reason to differ from the earlier views that has been taken by this Court; No change of circumstances; No new ground has been made by the petitioner in all the cases; Final report has also been filed before the trial Court and taken cognizance in C.C.No.542 of 2023, pending on the file of the NDPS Court, Madurai. Therefore, this petition deserves to be dismissed.

8.Accordingly, these criminal original petitions stand dismissed. However, considering the period of incarceration, there shall be a direction to the trial Court to



CRL OP(MD). Nos.12696 & 12698 of 2023

complete the trial process in C.C.No.542 of 2023, within a period of five months from the date of receipt of a copy of this order.

sd/-
25/07/2023

/ TRUE COPY /

/08/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tm

TO

- 1.THE SPECIAL JUDGE FOR EC & NDPS ACT CASES,
MADURAI.
2. THE OFFICER INCHARGE,
SUB JAIL, PALANI.
3. THE INSPECTOR OF POLICE,
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



CRL OP(MD). Nos.12696 & 12698 of 2023

COPY TO
WEB COPY

THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD). Nos.12696 & 12698 of 2023
Date :25/07/2023

RK/DD (08/08/2023) 6P /5 C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023